

SUBCOMMITTEE: COMMERCE, AGRICULTURE, NATURAL RESOURCES &

HOUSE BILL NO. 1609

AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the House Committee on _____)

on _____)

(Patron Prior to Substitute--Delegate Webert)

A BILL to amend and reenact §§ 59.1-365 and 59.1-392 of the Code of Virginia, relating to horse racing and pari-mutuel wagering.

Be it enacted by the General Assembly of Virginia:**1. That §§ 59.1-365 and 59.1-392 of the Code of Virginia are amended and reenacted as follows:****§ 59.1-365. Definitions.**

As used in this chapter, unless the context requires a different meaning:

"Advance deposit account wagering" means a method of pari-mutuel wagering conducted in the Commonwealth that is permissible under the Interstate Horseracing Act, § 3001 et seq. of Chapter 57 of Title 15 of the United States Code, and in which an individual may establish an account with an entity, licensed by the Commission, to place pari-mutuel wagers in person or electronically.

"Breakage" means the odd cents by which the amount payable on each dollar wagered exceeds a multiple of \$0.10.

"Commission" means the Virginia Racing Commission.

"Dependent" means a son, daughter, father, mother, brother, sister, or other person, whether or not related by blood or marriage, if such person receives from an officer or employee more than one-half of his financial support.

"Drug" shall have the meaning prescribed by § 54.1-3401. The Commission shall by regulation define and designate those drugs the use of which is prohibited or restricted.

"Enclosure" means all areas of the property of a track to which admission can be obtained only by payment of an admission fee or upon presentation of authorized credentials, and any additional areas designated by the Commission.

27 "Handle" means the total amount of all pari-mutuel wagering sales excluding refunds and
28 cancellations.

29 "Historical horse racing" means a form of horse racing that creates pari-mutuel pools from wagers
30 placed on previously conducted horse races and is hosted at (i) a racetrack owned or operated by a
31 significant infrastructure limited licensee or (ii) a satellite facility that is owned or operated by (a) a
32 significant infrastructure limited licensee or (b) the nonprofit industry stakeholder organization recognized
33 by the Commission and licensed to own or operate such satellite facility.

34 "Horse racing" means a competition on a set course involving a race between horses on which
35 pari-mutuel wagering is permitted and includes historical horse racing.

36 "Immediate family" means (i) a spouse and (ii) any other person residing in the same household
37 as an officer or employee, who is a dependent of the officer or employee or of whom the officer or
38 employee is a dependent.

39 "Licensee" includes any person holding an owner's or operator's license under Article 2 (§ 59.1-
40 375 et seq.).

41 "Member" includes any person designated a member of a nonstock corporation, and any person
42 who by means of a pecuniary or other interest in such corporation exercises the power of a member.

43 "Pari-mutuel wagering" means the system of wagering on horse races in which those who wager
44 on horses that finish in the position or positions for which wagers are taken share in the total amounts
45 wagered, plus any amounts provided by a licensee, less deductions required or permitted by law and
46 includes pari-mutuel wagering on historical horse racing and simulcast horse racing originating within the
47 Commonwealth or from any other jurisdiction.

48 "Participant" means any person who (i) has an ownership interest in any horse entered to race in
49 the Commonwealth or who acts as the trainer, jockey, or driver of any horse entered to race in the
50 Commonwealth or (ii) takes part in any horse racing subject to the jurisdiction of the Commission or in
51 the conduct of a race meeting or pari-mutuel wagering there, including but not limited to a horse owner,
52 trainer, jockey, or driver, groom, stable foreman, valet, veterinarian, agent, pari-mutuel employee,

53 concessionaire or employee thereof, track employee, or other position the Commission deems necessary
54 to regulate to ensure the integrity of horse racing in Virginia.

55 "Permit holder" includes any person holding a permit to participate in any horse racing subject to
56 the jurisdiction of the Commission or in the conduct of a race meeting or pari-mutuel wagering thereon as
57 provided in § 59.1-387.

58 "Person" means any individual, group of individuals, firm, company, corporation, partnership,
59 business, trust, association, or other legal entity.

60 "Pool" means the amount wagered during a race meeting or during a specified period thereof.

61 "Principal stockholder" means any person who individually or in concert with his spouse and
62 immediate family members, beneficially owns or controls, directly or indirectly, five percent or more of
63 the stock of any person which is a licensee, or who in concert with his spouse and immediate family
64 members, has the power to vote or cause the vote of five percent or more of any such stock. However,
65 "principal stockholder" shall not include a broker-dealer registered under the Securities Exchange Act of
66 1934, as amended, which holds in inventory shares for sale on the financial markets for a publicly traded
67 corporation holding, directly or indirectly, a license from the Commission.

68 "Race meeting" means the whole consecutive period of time during which horse racing with pari-
69 mutuel wagering is conducted by a licensee.

70 "Racetrack" means an outdoor course located in Virginia which is laid out for horse racing and is
71 licensed by the Commission.

72 "Recognized majority horsemen's group" means the organization recognized by the Commission
73 as the representative of the majority of owners and trainers racing at race meetings subject to the
74 Commission's jurisdiction.

75 "Retainage" means the total amount deducted from the pari-mutuel wagering pool for (i) a license
76 fee to the Commission and localities, (ii) the licensee, (iii) purse money for the participants, (iv) the
77 Virginia Breeders Fund, and (v) certain enumerated organizations as required or permitted by law,
78 regulation or contract approved by the Commission.

79 "Satellite facility" means all areas of the property at which simulcast horse racing is received for
80 the purposes of pari-mutuel wagering, and any additional areas designated by the Commission.

81 "Significant infrastructure facility" means a horse racing facility that has been approved by a local
82 referendum pursuant to § 59.1-391 and has a minimum racing infrastructure consisting of (i) a one-mile
83 dirt track for flat racing, (ii) a seven-eighths-mile turf course for flat or jump racing, (iii) covered seating
84 for no fewer than 500 persons, and (iv) barns with no fewer than 400 permanent stalls.

85 "Significant infrastructure limited licensee" means a person who owns or operates a significant
86 infrastructure facility and holds a limited license under § 59.1-376.

87 "Simulcast horse racing" means the simultaneous transmission of the audio or video portion, or
88 both, of horse races from a licensed horse racetrack or satellite facility to another licensed horse racetrack
89 or satellite facility, regardless of state of licensure, whether such races originate within the Commonwealth
90 or any other jurisdiction, by satellite communication devices, television cables, telephone lines, or any
91 other means for the purposes of conducting pari-mutuel wagering.

92 "Steward" means a racing official, duly appointed by the Commission, with powers and duties
93 prescribed by Commission regulations.

94 "Stock" includes all classes of stock, partnership interest, membership interest, or similar
95 ownership interest of an applicant or licensee, and any debt or other obligation of such person or an
96 affiliated person if the Commission finds that the holder of such interest or stock derives therefrom such
97 control of or voice in the operation of the applicant or licensee that he should be deemed an owner of
98 stock.

99 "Virginia Breeders Fund" means the fund established to foster the industry of breeding race horses
100 in the Commonwealth of Virginia.

101 **§ 59.1-392. Percentage retained; tax.**

102 A. Any person holding an operator's license to operate a horse racetrack or satellite facility in the
103 Commonwealth pursuant to this chapter shall be authorized to conduct pari-mutuel wagering on horse
104 racing subject to the provisions of this chapter and the conditions and regulations of the Commission.

105 B. On pari-mutuel pools generated by wagering at the racetrack on live horse racing conducted
106 within the Commonwealth, involving win, place and show wagering, the licensee shall retain a percentage
107 amount approved by the Commission as jointly requested by a recognized majority horsemen's group and
108 a licensee and the legitimate breakage, out of which shall be paid one and one-quarter percent to be
109 distributed as follows: one percent to the Commonwealth as a license tax and one-quarter percent to the
110 locality in which the racetrack is located. The remainder of the retainage shall be paid as provided in
111 subsection D, provided, however, that if the percentage amount approved by the Commission is other than
112 18 percent, the amounts provided in subdivisions D 1, 2 and 3 shall be adjusted by the proportion that the
113 approved percentage amount bears to 18 percent.

114 C. On pari-mutuel pools generated by wagering at each Virginia satellite facility on live horse
115 racing conducted within the Commonwealth, involving win, place and show wagering, the licensee shall
116 retain a percentage amount approved by the Commission as jointly requested by a recognized majority
117 horsemen's group and a licensee and the legitimate breakage, out of which shall be paid one and one-
118 quarter percent to be distributed as follows: three-quarters percent to the Commonwealth as a license tax,
119 one-quarter percent to the locality in which the satellite facility is located, and one-quarter percent to the
120 locality in which the racetrack is located. The remainder of the retainage shall be paid as provided in
121 subsection D; provided, however, that if the percentage amount approved by the Commission is other than
122 18 percent, the amounts provided in subdivisions D 1, 2 and 3 shall be adjusted by the proportion that the
123 approved percentage amount bears to 18 percent.

124 D. On pari-mutuel pools generated by wagering at the racetrack and each Virginia satellite facility
125 on live horse racing conducted within the Commonwealth, involving win, place and show wagering, the
126 licensee shall retain a percentage amount approved by the Commission as jointly requested by a
127 recognized majority horsemen's group and a licensee and the legitimate breakage, out of which shall be
128 paid:

- 129 1. Eight percent as purses or prizes to the participants in such race meeting;
130 2. Seven and one-half percent, and all of the breakage and the proceeds of pari-mutuel tickets
131 unredeemed 180 days from the date on which the race was conducted, to the operator;

132 3. One percent to the Virginia Breeders Fund;

133 4. Fifteen one-hundredths percent to the Virginia-Maryland Regional College of Veterinary
134 Medicine;

135 5. Five one-hundredths percent to the Virginia Horse Center Foundation;

136 6. Five one-hundredths percent to the Virginia Horse Industry Board; and

137 7. The remainder of the retainage shall be paid as appropriate under subsection B or C.

138 E. On pari-mutuel pools generated by wagering at the racetrack on live horse racing conducted
139 within the Commonwealth involving wagering other than win, place and show wagering, the licensee shall
140 retain a percentage amount approved by the Commission as jointly requested by a recognized majority
141 horsemen's group and a licensee and the legitimate breakage, out of which shall be paid two and three-
142 quarters percent to be distributed as follows: two and one-quarter percent to the Commonwealth as a
143 license tax, and one-half percent to the locality in which the racetrack is located. The remainder of the
144 retainage shall be paid as provided in subsection G; provided, however, that if the percentage amount
145 approved by the Commission is other than 22 percent, the amounts provided in subdivisions G 1, 2 and 3
146 shall be adjusted by the proportion that the approved percentage amount bears to 22 percent.

147 F. On pari-mutuel pools generated by wagering at each Virginia satellite facility on live horse
148 racing conducted within the Commonwealth involving wagering other than win, place and show wagering,
149 the licensee shall retain a percentage amount approved by the Commission as jointly requested by a
150 recognized majority horsemen's group and a licensee and the legitimate breakage, out of which shall be
151 paid two and three-quarters percent to be distributed as follows: one and three-quarters percent to the
152 Commonwealth as a license tax, one-half percent to the locality in which the satellite facility is located,
153 and one-half percent to the locality in which the racetrack is located. The remainder of the retainage shall
154 be paid as provided in subsection G; provided, however, that if the percentage amount approved by the
155 Commission is other than 22 percent, the amounts provided in subdivisions G 1, 2 and 3 shall be adjusted
156 by the proportion that the approved percentage amount bears to 22 percent.

157 G. On pari-mutuel pools generated by wagering at the racetrack and each Virginia satellite facility
158 on live horse racing conducted within the Commonwealth involving wagering other than win, place and

show wagering, the licensee shall retain a percentage amount approved by the Commission as jointly requested by a recognized majority horsemen's group and a licensee and the legitimate breakage, out of which shall be paid:

1. Nine percent as purses or prizes to the participants in such race meeting;
2. Nine percent, and the proceeds of the pari-mutuel tickets unredeemed 180 days from the date on which the race was conducted, to the operator;
3. One percent to the Virginia Breeders Fund;
4. Fifteen one-hundredths percent to the Virginia-Maryland Regional College of Veterinary Medicine;
5. Five one-hundredths percent to the Virginia Horse Center Foundation;
6. Five one-hundredths percent to the Virginia Horse Industry Board; and
7. The remainder of the retainage shall be paid as appropriate under subsection E or F.

H. On pari-mutuel wagering generated by simulcast horse racing transmitted from jurisdictions outside the Commonwealth, the licensee may, with the approval of the Commission, commingle pools with the racetrack where the transmission emanates or establish separate pools for wagering within the Commonwealth. All simulcast horse racing in this subsection must comply with the Interstate Horse Racing Act of 1978 (15 U.S.C. § 3001 et seq.).

I. On pari-mutuel pools generated by wagering at the racetrack on simulcast horse racing transmitted from jurisdictions outside the Commonwealth, involving win, place and show wagering, the licensee shall retain one and one-quarter percent of such pool to be distributed as follows: three-quarters percent to the Commonwealth as a license tax, and one-half percent to the Virginia locality in which the racetrack is located.

J. On pari-mutuel pools generated by wagering at each Virginia satellite facility on simulcast horse racing transmitted from jurisdictions outside the Commonwealth, involving win, place and show wagering, the licensee shall retain one and one-quarter percent of such pool to be distributed as follows: three-quarters percent to the Commonwealth as a license tax, one-quarter percent to the locality in which

the satellite facility is located, and one-quarter percent to the Virginia locality in which the racetrack is located.

K. On pari-mutuel pools generated by wagering at the racetrack and each Virginia satellite facility on simulcast horse racing transmitted from jurisdictions outside the Commonwealth, involving win, place and show wagering, the licensee shall retain one and thirty one-hundredths percent of such pool to be distributed as follows:

1. One percent of the pool to the Virginia Breeders Fund;
2. Fifteen one-hundredths percent to the Virginia-Maryland Regional College of Veterinary Medicine;
3. Five one-hundredths percent to the Virginia Horse Center Foundation;
4. Five one-hundredths percent to the Virginia Horse Industry Board; and
5. Five one-hundredths percent to the Virginia Thoroughbred Association for the promotion of breeding in the Commonwealth.

L. On pari-mutuel pools generated by wagering at the racetrack on simulcast horse racing transmitted from jurisdictions outside the Commonwealth, involving wagering other than win, place and show wagering, the licensee shall retain two and three-quarters percent of such pool to be distributed as follows: one and three-quarters percent to the Commonwealth as a license tax, and one percent to the Virginia locality in which the racetrack is located.

M. On pari-mutuel pools generated by wagering at each Virginia satellite facility on simulcast horse racing transmitted from jurisdictions outside the Commonwealth, involving wagering other than win, place and show wagering, the licensee shall retain two and three-quarters percent of such pool to be distributed as follows: one and three-quarters percent to the Commonwealth as a license tax, one-half percent to the locality in which the satellite facility is located, and one-half percent to the Virginia locality in which the racetrack is located.

N. On pari-mutuel pools generated by wagering at the racetrack and each Virginia satellite facility on simulcast horse racing transmitted from jurisdictions outside the Commonwealth, involving wagering

211 other than win, place and show wagering, the licensee shall retain one and thirty one-hundredths percent
212 of such pool to be distributed as follows:

- 213 1. One percent of the pool to the Virginia Breeders Fund;
- 214 2. Fifteen one-hundredths percent to the Virginia-Maryland Regional College of Veterinary
215 Medicine;
- 216 3. Five one-hundredths percent to the Virginia Horse Center Foundation;
- 217 4. Five one-hundredths percent to the Virginia Horse Industry Board; and
- 218 5. Five one-hundredths percent to the Virginia Thoroughbred Association for the promotion of
219 breeding in the Commonwealth.

220 O. Moneys payable to the Commonwealth shall be deposited in the general fund. Gross receipts
221 for license tax purposes under Chapter 37 (§ 58.1-3700 et seq.) of Title 58.1 shall not include pari-mutuel
222 wagering pools and license taxes authorized by this section.

223 P. All payments by the licensee to the Commonwealth or any locality shall be made within five
224 days from the date on which such wagers are received by the licensee. All payments by the licensee to the
225 Virginia Breeders Fund shall be made to the Commission within five days from the date on which such
226 wagers are received by the licensee. All payments by the licensee to the Virginia-Maryland Regional
227 College of Veterinary Medicine, the Virginia Horse Center Foundation, the Virginia Horse Industry
228 Board, and the Virginia Thoroughbred Association shall be made by the first day of each quarter of the
229 calendar year. All payments made under this section shall be used in support of the policy of the
230 Commonwealth to sustain and promote the growth of a native industry.

231 Q. If a satellite facility is located in more than one locality, any amount a licensee is required to
232 pay under this section to the locality in which the satellite facility is located shall be prorated in equal
233 shares among those localities.

234 R. Any contractual agreement between a licensee and other entities concerning the distribution of
235 the remaining portion of the retainage under subsections I through N and subsection U shall be subject to
236 the approval of the Commission.

237 S. The recognized majority horsemen's group racing at a licensed race meeting may, subject to the
238 approval of the Commission, withdraw for administrative costs associated with serving the interests of the
239 horsemen an amount not to exceed two percent of the amount in the horsemen's account.

240 T. The legitimate breakage from each pari-mutuel pool for ~~both live, historical, and simulcast horse~~
241 ~~racing and simulcast horse racing~~ shall be distributed as follows:

242 1. Seventy percent to be retained by the licensee to be used for capital improvements that are
243 subject to approval of the Commission; and

244 2. Thirty percent to be deposited in the Racing Benevolence Fund, administered jointly by the
245 licensee and the recognized majority horsemen's group racing at a licensed race meeting, to be disbursed
246 with the approval of the Commission for gambling addiction and substance abuse counseling, recreational,
247 educational or other related programs.

248 U. On pari-mutuel pools generated by wagering on historical horse racing, the licensee shall retain
249 one and one-quarter percent of such pool to be distributed as follows:

250 1. Three-quarters percent to the Commonwealth as a license tax; and

251 2. a. If generated at a racetrack, one-half percent to the locality in which the racetrack is located;

252 or

253 b. If generated at a satellite facility, one-quarter percent to the locality in which the satellite facility
254 is located and one-quarter percent to the Virginia locality in which the racetrack is located.

255 **2. That the Virginia Racing Commission shall promulgate regulations to implement the provisions**
256 **of this act to be effective within 180 days of its enactment.**

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